


(Original Signature of Member)

109TH CONGRESS
2D SESSION

H. R. _____

To amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming.

IN THE HOUSE OF REPRESENTATIVES

Mr. POMBO introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend section 20 of the Indian Gaming Regulatory Act
to restrict off-reservation gaming.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. RESTRICTION ON OFF-RESERVATION GAMING.**

4 Section 20 of the Indian Gaming Regulatory Act (25
5 U.S.C. 2719) is amended—

6 (1) by amending subsection (b)(1) to read as
7 follows:



1 “(b)(1) Subsection (a) will not apply when lands are
2 taken in trust for the benefit of an Indian tribe that is
3 newly recognized, restored, or landless after the date of
4 the enactment of subsection (f), including those newly rec-
5 ognized under the Federal Acknowledgment Process at the
6 Bureau of Indian Affairs, and the following criteria are
7 met:

8 “(A) The Secretary determines that such lands
9 are within the State of such tribe and are within the
10 primary geographic, social, historical, and temporal
11 nexus of the Indian tribe.

12 “(B) The Secretary determines that the pro-
13 posed gaming activity would not be detrimental to
14 the surrounding community and nearby Indian
15 tribes.

16 “(C) The Governor and State legislature of the
17 State in which the gaming activities will be con-
18 ducted concur.

19 “(D) The Indian tribes within 75 miles of the
20 proposed tribal trust land acquisition concur.

21 “(E) The regional Bureau office shall not rec-
22 ommend a tribal application for trust land acquisi-
23 tion for the purposes of gaming, in accordance with
24 this section, until after the county or parish govern-
25 ment with authority over the land that is contiguous



1 to the lands applied to be taken into trust has held
2 an advisory referendum, paid for by the tribal appli-
3 cant, to determine whether the residents of that
4 county or parish support or oppose the Indian tribe's
5 application to conduct gaming regulated by this Act.
6 Regardless of the result of the referendum, for the
7 purposes of the Indian tribe mitigating the direct
8 impact on the county or parish infrastructure, and
9 to include a direct payment to mitigate county or
10 parish infrastructure costs, the Indian tribe shall ne-
11 gotiate and sign a memorandum of understanding
12 with the county or parish government. Such mitiga-
13 tion payments shall be limited to the direct effects
14 of the tribal gaming activities on the affected county
15 or parish infrastructure and services. If a memo-
16 randum of understanding is not signed within one
17 year after the advisory referendum, both parties
18 shall submit to mandatory binding arbitration to
19 agree upon such a memorandum of understanding.”;
20 and

21 (2) by adding at the end the following new sub-
22 sections:

23 “(e)(1) In order to consolidate class II gaming and
24 class III gaming development, an Indian tribe may host
25 one or more other Indian tribes to participate in or benefit

1 from gaming conducted under this Act and in conform-
2 ance with a Tribal-State compact entered into by each in-
3 vited Indian tribe and the State under this Act upon any
4 portion of Indian land that was, as of October 17, 1988,
5 located within the boundaries of the reservation of the host
6 Indian tribe, so long as each invited Indian tribe has no
7 ownership interest in any other gaming facility on any
8 other Indian lands and has its primary geographic, social,
9 historical, and temporal nexus to land in the State in
10 which the Indian land of the host Indian tribe is located.

11 “(2) An Indian tribe invited to conduct class II gam-
12 ing or class III gaming under paragraph (1) may do so
13 under authority of a lease with the host Indian tribe. Such
14 a lease shall be lawful without the review or approval of
15 the Secretary and shall be deemed by the Secretary to be
16 sufficient evidence of the existence of Indian land of the
17 invited Indian tribe for purposes of Secretarial approval
18 of a Tribal-State compact under this Act.

19 “(3) Notwithstanding any other provision of law, the
20 Indian tribes identified in paragraph (1) may establish the
21 terms and conditions of their lease and other agreements
22 between them in their sole discretion, except that in no
23 case may the total payments to the host Indian tribe under
24 the lease and other agreements exceed 40 percent of the
25 net revenues (defined for such purposes as the revenue



1 available to the 2 Indian tribes after deduction of costs
2 of operating and financing the gaming facility developed
3 on the leased land and of fees due to be paid under the
4 Tribal-State compact) of the gaming activity conducted by
5 the invited Indian tribe.

6 “(4) An invited Indian tribe under this subsection
7 shall be deemed by the Secretary and the Commission to
8 have the sole proprietary interest and responsibility for the
9 conduct of any gaming on lands leased from a host Indian
10 tribe.

11 “(5) Conduct of gaming by an invited Indian tribe
12 on lands leased from a host Indian tribe under this sub-
13 section shall be deemed by the Secretary and the Commis-
14 sion to be conducted under the Act upon Indian lands—

15 “(A) of the invited Indian tribe;

16 “(B) within the jurisdiction of the invited In-
17 dian tribe; and

18 “(C) over which the invited Indian tribe has
19 and exercises governmental power.

20 “(6) Any lease agreement authorized by this section
21 shall not be valid unless it is—

22 “(A) consistent with the Tribal-State com-
23 pacting laws of the State in which the gaming activi-
24 ties will be conducted;



1 “(B) approved by an Act of the State legisla-
2 ture; and

3 “(C) approved by the Governor of the State.

4 “(f) An Indian tribe shall not conduct gaming regu-
5 lated by this Act on Indian lands outside of a State in
6 which the Indian tribe has a reservation on the date of
7 the enactment of this subsection, unless such Indian lands
8 are contiguous to such a reservation of that Indian tribe
9 in that State.”.

10 **SEC. 2. STATUTORY CONSTRUCTION.**

11 The amendment made by paragraph (1) of section
12 1 shall be applied prospectively. Compacts or other agree-
13 ments that govern gaming regulated by the Indian Gam-
14 ing Regulatory Act of 1988 (25 U.S.C. 2701 et seq) on
15 Indian lands that were in effect on the date of the enact-
16 ment of this Act shall not be affected by the amendments
17 made by paragraph (1) of section 1 of this Act.

